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Filing date: **06/09/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|------------------------|--|
| Proceeding | 91177234 |
| Party | Plaintiff Cardinal Health 303, Inc. |
| Correspondence Address | Joseph R. Dreitler Bricker & Eckler LLP 100 S. Third Street Columbus, OH 43215-4291 UNITED STATES mtrue@bricker.com |
| Submission | Plaintiff's Notice of Reliance |
| Filer's Name | Mary R. True |
| Filer's e-mail | jdreitler@bricker.com, mtrue@bricker.com, trademarks@bricker.com |
| Signature | /Mary R. True/ |
| Date | 06/09/2009 |
| Attachments | Betz Notice.pdf (6 pages)(129088 bytes) |

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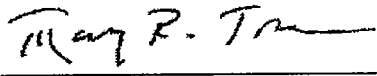
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|------------------------------|---|------------------------------|
| 1. CARDINAL HEALTH 303, INC. | : | |
| Opposer | : | |
| v. | : | Opposition No.: 91-177,234 |
| THE ALARIS GROUP, INC. | : | |
| Applicant | : | |
| : | | |
| 2. CARDINAL HEALTH 303, INC. | : | |
| Opposer | : | |
| v. | : | Opposition No.: 91-177,365 |
| THE ALARIS GROUP, INC. | : | |
| Applicant | : | |
| : | | |
| 3. CARDINAL HEALTH 303, INC. | : | |
| Opposer | : | |
| v. | : | Opposition No.: 91-177,366 |
| THE ALARIS GROUP, INC. | : | |
| Applicant | : | |
| : | | |
| 4. CARDINAL HEALTH 303, INC. | : | |
| Opposer | : | |
| v. | : | Opposition No.: 91-177,367 |
| THE ALARIS GROUP, INC. | : | |
| Applicant | : | |
| : | | |
| 5. CARDINAL HEALTH 303, INC. | : | |
| Petitioner | : | |
| v. | : | Cancellation No.: 92-048,172 |
| THE ALARIS GROUP, INC. | : | |
| Registrant. | : | |

NOTICE OF RELIANCE PURSUANT TO 37 C.F.R. § 2.122(e)

Petitioner/Opposer Cardinal Health 303, Inc., gives notice of its reliance on the attached Declaration of B. Michael Betz which is being submitted and relied upon to show Opposer/Petitioner's marketing and sales of products bearing the Alaris trademark to non-hospital customers by its direct sales force during the period 1996 through 2002.

Dated: June 9, 2009

Respectfully submitted,

By: 

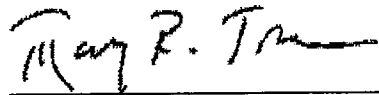
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Attorneys for Opposer
Cardinal Health 303, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served upon the following attorney of record for Applicant by electronic and First Class Mail, this 9th day of June 2009:

Kristine Boylan
Merchant & Gould
3200 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402
kboylan@merchantgould.com

A handwritten signature in black ink, appearing to read "Mary R. True", written over a horizontal line.

Mary R. True

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

1. CARDINAL HEALTH 303, INC.

Opposer

v.

THE ALARIS GROUP, INC.

Applicant

Opposition No. 91-177,234

2. CARDINAL HEALTH 303, INC.

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3. CARDINAL HEALTH 303, INC.

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4. CARDINAL HEALTH 303, INC.

Opposer

v.

THE ALARIS GROUP, INC.

Applicant

Opposition No. 91-177,367

5. CARDINAL HEALTH 303, INC.

Petitioner

v.

THE ALARIS GROUP, INC.

Registrant

Cancellation No. 92-048,172

STIPULATED TESTIMONY OF B. MICHAEL BETZ

Pursuant to the Stipulation of April 29, 2009, between the parties as to means of taking testimony, filed with the TTAB and in accordance with the TTAB Rules of Procedure, I, B. Michael Betz, state that as a witness for Opposer/Petitioner, if called I would testify as follows:

1. I am the Vice President, Sales, Clinical and Medical Sales – Alaris, Cardinal Health 303, Inc. San Diego, CA.
2. I have been employed by Cardinal Health 303, Inc. San Diego, CA and its predecessors in interest (collectively “the Company”) for approximately twenty-three (23) years. I am personally familiar with the history of the Company.
3. I have held a variety of sales and marketing positions at the Company over the past 23 years, including being responsible for the start-up of the “disposables” business in 2002 as well as the business of selling infusion pumps and IV sets to non hospital customers from approximately 1996-2002.
4. When the current Company’s predecessors, River Medical and IVAC came together in 1996, River Medical had a very small business in selling disposable infusion pumps outside of hospitals. During the time that I was in charge of that business until

2002, we grew the sales from about \$500,000 per year to more than \$26 million per year. Two of the main infusion pump products sold under the Alaris trademark for use in home health care during that time period were the Alaris Ready Med and the Alaris Signature Edition pumps. We also sold the SmartSite IV Infusion Sets (gravity sets, extension sets and components).

5. During the period 1996-2002 we had six sales people to train the distribution sales force like Tacy Medical, Advanced Medical and Progressive Medical on the use of these products for sale to home health agencies, such as Option Care and Care Mark, and would train their staff on how the product was used so that they could use the products

6. In 2002 the Company decided to distribute these home health care pumps differently, we eliminated our direct sales force and sole responsibility for the sales and distribution went to large national distributors of medical supplies like McKesson and Cardinal Health and to specialty/regional distributors of medical devices and products like Tacy Medical, Advanced Medical and Progressive Medical. Also, during this time period, Alaris was distributing small wearable infusion pumps for a short period of time made by Curlin Medical into the home health care market.

I declare under the penalties of perjury that the foregoing statements are true to the best of my information, knowledge and belief.

6/8/2009
Date


B. Michael Betz